

IN THE UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF PENNSYLVANIA

ELIJAH WHITE

Plaintiff,

v.

JASON WALSH, et al.

Defendants.

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CIVIL ACTION

NO. 2:23-cv-01883

HON. DAVID S. CERCONE

DEFENDANT THE HONORABLE JOHN DISALLE'S
MOTION TO DISMISS THE COMPLAINT

Defendant the Honorable John DiSalle moves to dismiss the Complaint pursuant to Fed.R.Civ.P. 12(b)(6) on the following grounds:

1. Judicial and Eleventh Amendment immunities preclude the claims against Judge DiSalle.
2. Pennsylvania's sovereign immunity statute, 1 Pa.C.S.A. § 2310, bars Plaintiff's state law claims.
3. Pursuant to *Younger v. Harris*, 401 U.S. 37 (1971), this Court should abstain from interfering with Plaintiff's state court appeal of the Contempt Order.
4. *Heck v. Humphrey*, 512 U.S. 477 (1994), bars Plaintiff's claims because granting his requested relief would improperly invalidate or call into question the Contempt Order.

WHEREFORE, Judge DiSalle respectfully requests that this Honorable Court dismiss him from this case with prejudice.

Respectfully Submitted,

/s/ Jennifer M. Herrmann

JENNIFER M. HERRMANN, ESQ.

Attorney I.D. No. PA 209512

Supreme Court of Pennsylvania

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Attorney for defendant Hon. John DiSalle

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CERTIFICATE OF SERVICE

The undersigned certifies that on November 21, 2023, she personally caused the foregoing *Motion to Dismiss, Brief in Support, and Proposed Order* to be served by ECF on counsel of record.

/s/ Jennifer M. Herrmann

JENNIFER M. HERRMANN, ESQ.

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